IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 31ST OCTOBER 2007 / 9TH KARTHIKA 1929

WP(C).No. 28845 of 2007(H)

PETITIONER:

M.R.GOVINDHA MARAR, MUNDAKKAL VEEDU,
RAMAMANGALAM, PIN - 686 663.

BY ADV. SRI.P.RAVINDRAN

RESPONDENTS:

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1. RAMAMANGALAM GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY,
RAMAMANGALAM.

2. THE SECRETARY,
RAMAMANGALAM GRAMA PANCHAYATH,
RAMAMANGALAM.

3. SUDAN, S/O.MUNDAKKAL NARAYANAN,
MUNDAKKAL HOUSE, RAMAMANGALAM,
ERNAKULAM DT.

R3 BY ADV. SRI.R.RAMADAS
SMT.JIJI N.VARGHESE
R1 & R2 BY ADV.SRI.MOHAN IDICULLA ABRAHAM
SRI.MARTIN D.ALUMKARA
SMT.PUSHPY B.MURICKEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

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W.P.(C)No.28845 OF 2007

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DATED THIS THE 31ST OCTOBER, 2007

J U D G M E N T

The grievance of the petitioner is that the 3rd respondent, his neighbour is constructing a many storied building in the area of the 2nd respondent-Panchayat in violation of the statutory building rules which have been extended to the Panchayat.

2. Heard Sri.P.Ravindran, counsel for the petitioner, Sri.R.Ramdas, counsel for the 3rd respondent and Sri.Mohan Idiculla Abraham, counsel for the Panchayat.

3. Drawing my attention to Ext.P6 application submitted by the 3rd respondent, Mr.Ravindran submitted that it would suffice that the Panchayat hears the petitioner also before orders are passed on Ext.P6. Counsel also placed before me two photographs of the constructions which are under way and submitted that if constructions are permitted in the manner they have been undertaken, rain water will necessarily drain to the petitioner's property which is highly objectionable.

4. Mr.Ramdas taking exception to the above submissions would submit that the construction of the ground floor is almost over. It is the plastering work which is taken up now. In Ext.P6 the request is

not for permission to construct the upper floors but Ext.P6 pertains to completion of the ground floor also. The petitioner cannot have a say in the matter of construction of the ground floor since that floor was constructed at a time when the rules were not in force. My attention was drawn by counsel to Exts.P1 and P3 and he would submit that to begin with the petitioner's complaint was only regarding the well which was constructed by the 3rd respondent. A reading of Ext.P3, according to learned counsel, will show that the construction of the ground floor was over on the day when Ext.P3 was submitted.

5. It is not correct to say that Ext.P6 is an application for permission regarding the completion of the ground floor. A careful reading of Ext.P3 itself will show that permission is sought regarding construction of floors above the ground floor also.

6. Considering the objections which have been raised by the petitioner, it is only proper that the petitioner is also heard before the Panchayat passes orders on Ext.P6. I therefore dispose of the Writ Petition issuing the following directions:-

The Panchayat will take up Ext.P6 and before orders are passed on Ext.P6 or on any other statutory application submitted by the 3rd respondent pursuant to the introduction of the Building Rules in

Ramamangalam Panchayat, the Panchayat will hear the petitioner also. It is clarified that the above direction pertains to construction of floors above the ground floor which is seen almost completed. It is made clear that this judgment will not stand in way of the petitioner filing complaints voicing all his grievances before the Secretary of the Panchayat. If any such complaint is received, the Panchayat will consider that complaint and take a decision on that complaint with notice to the petitioner and the 3rd respondent.

(PIUS C.KURIAKOSE, JUDGE)

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